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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,369	11/23/2001	Gerd Munnekehoff	44815-262289 (26010)	9397

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/913,369

Applicant(s)

MUNNEKEHOFF, GERD

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-19 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,11,13-17 and 22-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-10,12,18,19 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Applicant's substitute specification filed January 21, 2003, has been entered.
2. Claims 5, 11, 13-17, and 22-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, species, or sub-species, as listed by the applicant in the election. Election was made without traverse in Paper No. 9. Additionally, claim 3 remains withdrawn from consideration as drawn to a fluid drive device, not the elected electric motor species.
3. The following is a quotation of the first paragraph of 35 U.S.C. § 112:  

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate description of the claimed invention.
  - a. It is unclear as to how the device is considered as having a regulating circuit which uses a signal related to a path covered during an initial course of the vertical movement to balance the load. The disclosure has an angle of rotation sensed at the drive shaft, an incremental encoder with a deflecting disk, or a parallelogram angle sensor used to generate this signal. However it is unclear as to how such a signal can be correlated with the initial path of movement. The signals appear to indicate pure lifting actuating without correlation to an initial course.
  - b. It is unclear as to how applicant is using a deflecting disk and incremental encoder to generate the control signal.
5. Claims 1, 2, 6-10, 12, 18, 19, and 26 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.
6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  


The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

7. Claims 2, 7-9, 12, 18, 19, and 26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claims 2, 8, 9, and 12, the term "the path-dependent signal" lacks antecedent basis within the claims.
- b. In claim 7 the term "the load-bearing parallelogram" lacks antecedent basis within the claims.
- c. It is also unclear as to how claim 7 can refer to structure of the parallelogram while depending from claim 6 which is drawn to a different species.
- d. In claim 8, the term "the drum" lacks antecedent basis within the claim.

8. As it is unclear as to how the claimed invention functions, rejections based upon prior art have not been included in this action. This is not an indication of allowable subject matter.

9. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

  
THOMAS J. BRAHAN  
PRIMARY EXAMINER